

REMARKS

Claims 34 - 48 are pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the remarks herein.

REJECTION UNDER 35 U.S.C. § 102

Claims 34-37 and 39 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Gabriel* (U.S. Patent No. 6,173,199). This rejection is respectfully traversed.

Independent Claims 34, 35 and 39

Claims 34, 35 and 39 recite a “support structure in the lumen”. The Final Office Action notes (on page 3, line 10) that *Gabriel* teaches a support structure (46) that is within a lumen (40) . However, support structure (46) as shown in Figure 4 of *Gabriel* is disposed outside of the lumen (40) (See Figure 4 of *Gabriel*).

Claims 34, 35 and 39 also recite an optimal conduit in the catheter. The Final Office Action states (on page 3, line 1) that *Gabriel* discloses one or more optical conduit (66) in the distal end are rotatable within the support. However, the element (66) in *Gabriel* is merely a “wire 66 providing an electrical coupling between sensor 56 and signal generator 58,” where “sensor 56 is preferably constructed to detect the presence of a magnetic field.” (*Gabriel*, col. 6, lines 41-42, col. 7, lines 27-28). While the Examiner is permitted to give claims their broadest reasonable interpretation, it is not reasonable to equate *Gabriel*'s wire 66 with an optical conduit. (See *In Re Buszard*, 504 F.3d 1354, 84 U.S.P.Q.2d 1749, where Fed. Cir. reversed Appeal Board decision based on a finding that it was not reasonable to equate “flexible” with a reference's teaching of “rigid”.) The Applicant also notes that *Gabriel* also does not teach or suggest a rotatable conduit.

As *Gabriel* neither teaches nor suggests a support structure in a lumen, in which are included one or more optical conduits that are rotatable within the support structure, the Applicant submits that claims 34, 35 and 39 are not anticipated, and are allowable for at least these reasons.

Claim 37

With regard to claim 37, the Final Office Action states (on page 3, line 14) that *Gabriel's* support structure (46) acts as a sheath for catheter (10) (Figure 4). However, the support structure (46) and catheter (10) shown in *Gabriel* are one and the same; therefore, the support structure (46) cannot act as a sheath separate from a catheter for guiding the catheter, as claimed and disclosed in ¶ [0053] of the present application. (See Figure 9 of present application, which shows device 10 located in a sheath 120, with a space between the sheath and catheter body.) Thus, the Applicants submit that claim 37 is further distinguished from and not anticipated by *Gabriel* for at least this reason.

Claim 43

The Final Office Action states (on page 3, line 20) that *Gabriel* discloses an optical conduit (66) connected to an optical system. However, *Gabriel* merely discloses a "wire 66 providing an electrical coupling between sensor 56 and signal generator 58." (*Gabriel*, col., 7, lines 27-28). As such, claim 43 is not anticipated by *Gabriel* and is allowable for at least this reason.

Claims 45-46

With regard to these claims, the applicant cannot understand how *Gabriel's* sensor (56) could be construed to be an electrode having an opening, or how the

"conduit" (54) shown embedded within lumen (40) and the opening can rotate. (Final Office Action, page 4.) Given the inconsistency between the Examiner's interpretation of *Gabriel* and claims 45-46, these claims are also not anticipated.

Claims 36, 38, 40-42, 44 and 47-48

With regard to claims 36, 38, 40-42, 44 and 47-48, these claims ultimately depend from independent claim 34, 35 or 39, which Applicants believe to be allowable in view of the above remarks. As such, the Applicants submit that claims 36, 38, 40-42, 44 and 47-48 are also allowable for at least these reasons.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot by the present amendments. The Applicants therefore respectfully request that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If it will advance the prosecution of this application, the examiner is invited to call the undersigned at (314) 726-7500.

Respectfully submitted,

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